

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Norfolk Division

RONALD L. ROBERSON, #311723,

Petitioner,

v.

ACTION NO. 2:04CV705

GENE M. JOHNSON, Director of the
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254.

The petition alleges violation of federal rights pertaining to petitioner's conviction on May 23, 2003, for forcible sodomy of a minor child after having previously been convicted of a violent felony assault, in the Circuit Court of Henrico County, as a result of which he was sentenced to life imprisonment in the Virginia penal system.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. Report of the Magistrate Judge was filed on March 30, 2005, recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On April 11, 2005, the Court received petitioner's Motion for Enlargement of Time to File Objections to Magistrate's Findings and Recommendations (Document No. 20). Said motion was granted and the petitioner's time to submit objections was extended to May 13, 2005 by

Order entered April 12, 2005 (Document No. 21). On April 22, 2005, the Court received petitioner's Objection(s) to Magistrate's Findings and Recommendations (Document No. 22). Additionally, on April 22, 2005, the Court received petitioner's Motion to Attach Copies of Letters in Support of Showing Cause to Overcome Procedural Bar (Document No. 23). Petitioner's motion is GRANTED and Document No. 23 is hereby considered as additional objections to the U.S. Magistrate Judge's Report and Recommendation.

The Court, having reviewed the record and examined the objections filed by the petitioner to the United States Magistrate Judge's Report, and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed March 30, 2005. It is, therefore, ORDERED that the petition be DENIED and DISMISSED and that judgment be entered in favor of the respondent.

To the extent the petition is based on Grounds (b)(3) and (b)(5), the petition is DENIED because these claims were never raised to the Virginia state courts and petitioner has shown no cause for failing to present the claim and no prejudice resulting therefrom.

To the extent the petition is based on Grounds (a), (b)(1), (b)(2), and (b)(4), the petition is DENIED because these claims were previously adjudicated by the Supreme Court of Virginia on the merits and none of the statutory exceptions apply that would allow this Court to review the claims on the merits.

To the extent the petition is based on Ground (c), the petition is DENIED because it was procedurally bared from review in the state courts and thus may not now be considered in this federal Court.

Petitioner Roberson has failed to demonstrate “a substantial showing of the denial of a constitutional right,” therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 30 days from the date of entry of such judgment.

The Clerk shall mail a copy of this Final Order to the petitioner and to counsel of record for the respondent.

/s/

Jerome B. Friedman
United States District Judge

Norfolk, Virginia

May 17, 2005